

ARTICLE 29. SUBSTANCE ABUSE

599.963. Testing Process and Standards

Substance testing under this Article shall comply with the standards and procedures specified in the Federal Motor Carrier Safety Regulations, Title 49, Part 40 – Procedures for Transportation Workplace Drug and Alcohol Testing Programs, Subparts A – N, P and Q, and the following standards and procedures:

(a) The drug testing process shall be one that is scientifically proven to be at least as accurate and valid as urinalysis using an immunoassay screening test, with all positive screening results being confirmed utilizing gas chromatography/mass spectrometry before a sample is considered positive. The alcohol testing process shall be one that is scientifically proven to be at least as accurate and valid as ~~(1) urinalysis using an enzymatic assay screening test, with all positive screening results being confirmed using gas chromatography before a sample is considered positive or (2) breath sample testing using breath alcohol analyzing instruments which meet the standards specified in the Federal Motor Carrier Safety Regulations, Title 49 of the Code of Federal Regulations, Part 40, Subpart K, Sections 40.229 and 40.231. breath alcohol analyzing instruments which meet the State Department of Health Services standards specified in Title 17, Division 1, Chapter 2, Subchapter 1, Group 8, Article 7, Sections 1221.2 and 1221.3 of the California Code of Regulations.~~

(b) Substances to be tested for shall include the following:

- (1) Amphetamines and Methamphetamines
- (2) Cocaine
- (3) Marijuana/Cannabinoids (THC)
- (4) Opiates (narcotics)
- (5) Phencyclidine (PCP)
- (6) Barbiturates
- (7) Benzodiazepines

(8) Methaqualone

(9) Alcohol

In addition, with the approval of the department testing may be conducted for other controlled substances when the appointing power reasonably suspects the use of other substances.

(c) After consulting with expert staff of the laboratory or laboratories selected to perform the testing under this Article, the department shall set test cutoff levels that will identify positive test samples while minimizing false positive test results.

(d) Notwithstanding (c), the Department shall use cutoff levels for substances listed in (b)(1) through (5) as established in SAMHSA, Mandatory Guidelines for Federal Workplace Drug Testing Programs, Subpart B, Section 2.4, Part (e) and Part (f), ~~59 FR 29916 dated June 9, 1994, and 62 FR 51118 dated September 30, 1997~~ 69 FR 19644 dated April 13, 2004. For alcohol (b)(9) the Department shall use the Federal Motor Carrier Safety Administration alcohol concentration cutoff level as described in Part 382 - Controlled Substances and Alcohol Use and Testing, Section 201, 49 CFR dated ~~July 25, 1995~~ October 1, 2004.

(e) Test samples will be collected in a clinical setting such as a laboratory collection station, doctor's office, hospital or clinic or in another setting approved by the department on the basis that it provides for at least an equally secure and professional collection process. The department shall specify procedures to ensure that true samples are obtained.

(f) The Department shall use chain of custody procedures **similar to those used as specified** by SAMHSA to ensure that a strict chain of custody is maintained for the sample from the time it is taken, through the testing process, to its final disposition. Chain of custody forms shall, at a minimum, include an entry documenting date and purpose each time a specimen or sample is handled or transferred and identifying every individual in the chain of custody.

(g) Drug tests shall be performed by a commercial laboratory that is certified by SAMHSA (pursuant to the Mandatory Guidelines for Federal Workplace Drug Testing Program, Subpart C, 69 FR 19644 dated April 13, 2004, ~~Federal Register, Vol. 53 No. 69, or which meets the standards used by the College of American Pathologists (CAP) to accredit laboratories for forensic urine drug testing (Standards for Accreditation, Forensic Urine Drug Testing Laboratories, College of American Pathologists)~~).

(h) For random substance testing under this article, the department will use a scientifically valid method such as a random number table or a computer based random number generator that is matched with Social Security Numbers, payroll

identification numbers, or other comparable identifying numbers. A number not to exceed thirty-five percent of managers, supervisors, and exempt employees who are subject to random substance testing will be randomly selected for substance testing annually.

Note: Authority cited: Sections 19815.4(d), 19816 and 19820, Government Code. Reference: Section 19261, Government Code.

HISTORY

1. New section filed 9-7-88; operative 10-7-88 (Register 88, No. 38).
2. New subsections (e) and (f) filed 1-25-2001; operative 1-25-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
3. Amendment of subsection (e) filed 12-21-2005; operative 1-20-2006 (Register 2005, No. 51).

2 CCR § 599.960, 2 CA ADC § 599.960
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